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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/197, 908 11/23/98 HERBST A NEWMRKTP98-1

LM02/1229

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EXAMINER

RETTA, Y

ART UNIT

PAPER NUMBER

2764

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DATE MAILED:

12/29/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No. <b>09/197,908</b>	Applicant(s) <b>Herbst et al.</b>
	Examiner <b>Yehdega Retta</b>	Group Art Unit <b>2764</b>

Responsive to communication(s) filed on Nov 23, 1998

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle* 1035 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claim

Claim(s) 1-20 is/are pending in the application.  
Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 Claim(s) \_\_\_\_\_ is/are allowed.  
 Claim(s) 1-20 is/are rejected.  
 Claim(s) \_\_\_\_\_ is/are objected to.  
 Claims \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.  
 The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.  
 The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.  
 The specification is objected to by the Examiner.  
 The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).  
 All  Some\*  None of the CERTIFIED copies of the priority documents have been received.  
 received in Application No. (Series Code/Serial Number) \_\_\_\_\_.  
 received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892  
 Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_  
 Interview Summary, PTO-413  
 Notice of Draftsperson's Patent Drawing Review, PTO-948  
 Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. Claims 1, 16-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claims 1, 19 and 20, cited limitations “entering financial characteristics of preferred return instruments representing investments”, the financial characteristics of preferred return is not clearly stated in the specification. And “ generating output representing respective amounts of the instruments respectively in association with at least one member of a group consisting of the current preferred return and the price” is not clear what kind of output or (data) is generated.

As per claim 16, cited limitations “obtaining data representing at least one of a group consisting of a price and a preferred rate of return...that have been produced at the first digital electrical computer (which is input data to remotely price preferred return) and “ utilizing the data in generating... output representing respective amounts of preferred-return instruments respectively in association with at least one member of a group consisting of the current preferred return and the price. It is not clear what kind of data is obtained and generated.

As per claim 17, a method for managing a preferred-return auction the method including the steps of; “ generating output representing respective amounts of the instruments in

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transactions of the auction, respectively in association with at least one member of group consisting of the current preferred return and the price", it is not clear what kind of data is generated representing amount of the instruments consisting the current preferred return or the amount of the instruments consisting of price.

As per claim 18, cited limitation " obtaining data representing a real time auction of referred return instruments ...the data including a price and a current preferred return corresponding to the instruments" it is not clear of kind of data is obtained.

2. Claims 2-15 are rejected because by their dependence they include the language of a rejected base claim.

### *Conclusion*

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lupien et al., U.S.Patent No. 5,689,652, crossing network utilizing optimal mutual satisfaction density profile.

Kalmus et al., U.S.Patent No. 4,674,044, Automated securities trading system.

Atkins, U.S.Patent No. 5875437, system for the operation and management of one or more financial accounts through the use of a digital communication and computation system for exchange, investment and borrowing.

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Investigation of a Lead-Lag Relationship between spot Stock Indices and Their Futures Contracts, Anthony F. Herbst, Joseph P. McCormack, Elizabeth N. West, Journal of Future Markets, Vol. 7 No. 4, 373-381, 1987.

Stock Index Futures Contracts and Separability of Returns, Anthony F. Herbst, Nicholas O. Ordway, The Journal of Futures Markets, Vol. 4, No. 1, 87-102, 1984.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yehdega Retta whose telephone number is (703) 305-0436. The examiner can normally be reached on Monday-Friday from 7:30 a.m. to 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (703) 305-9768.

Any response to this office action should be mailed to:

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or faxed to:

(703) 308-9051, (for formal communications intended for entry)

or:

(703) 308-5397, (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive Arlington, Virginia, (Receptionist).

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Examiner  
Yehdega Retta  
Art Unit 2764  
December 21, 1999

James P. Trammell  
Supervisory Patent Examiner  
Technology Center 2700